

Serial No. 09/687,662

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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed January 26, 2007. Claims 1-21 are currently pending and rejected.

In view of the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103, and thus, all of these claims are now in allowable form.

It is to be understood that Applicants do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

Statement of Common Ownership of Application and Reference

Applicants represent that the present invention and Gordon et al. (U.S. patent 6,754,905) were, at the time the present invention was made, owned by, or subject to an obligation of assignment to Diva Systems Corporation.

Claim Rejections under §103

The Office Action rejected claims 1-2, 6-13 and 16-20 as being unpatentable over Coleman (U.S. Patent No. 5,844,620) in view of Gordon (U.S. Patent No. 6,754,905, hereinafter "Gordon").

The Office Action further rejected claims 3-5, 14-15, and 21 as being unpatentable over Coleman and Gordon, in view U.S. Patent No. 3,754,211 to Rocher.

Applicants submit that, under 35 U.S.C. §103(c)(1), Gordon should be disqualified as prior art based on common ownership of Gordon and the present application as set forth in the Statement of Common Ownership above.

Specifically, Gordon is a patent application filed on April 15, 1999, and issued on June 22, 2004. Since the present application was filed on October 12, 2000, prior to the issue date of Gordon, Gordon would qualify only as a §102(e)/§103(a)

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reference. Thus, under 35 U.S.C. §103(c)(1), Gordon should be disqualified as a 103 reference against the present invention because of common ownership.

Since the §103(a) rejection of all claims is based on a combination involving Gordon, Applicants request that the rejection be withdrawn.

Secondary References

The secondary references made of record are noted. However, it is believed that the secondary references are no more pertinent to Applicants' disclosure than the primary references cited in the Office Action. Therefore, Applicants believe that a detailed discussion of the secondary references is not necessary for a full and complete response to this Office Action.

CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and passage of the claims to allowance. If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: 4/24/07

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